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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,204	06/26/2001	Naoyuki Fujisawa	1538.1015	9335

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/891,204

Applicant(s)

FUJISAWA ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19 have been examined. Application 09/891,204 has a filing date 06/26/2001 and foreign data 02/22/2001.

Response to Amendment

2. In response to Final Rejection filed 05/19/2006, the Applicant filed an RCE on 10/18/2006, which amended claim 1, 7, 13 and 19.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 18 recites "said particular packet data which does not reach" but it is not clear the meaning of "does not reach". For purpose of art rejection, said limitation would be interpreted as meaning re-transmitting information due to said information not being received by a terminal.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9, 11-15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLuca (US 5,870,030) in view of Applicant's background of the invention.

As per claims 1, 7, 13 and 19, DeLuca teaches:

A method for transferring a communication fee, comprising:

registering into a transmitting information storage device, information regarding destination users, a sender, and a particular packet data to be sent (see column 3, lines 23-30; col 7, lines 45-55);

when a terminal of said destination user registered in said transmitting information storage device performs a processing to receive packet data *that may include the particular packet data*, charging said destination user for said *received* packet data (see column 1, lines 15-22; col 7, lines 15-25),

transferring the communication fee charged to said destination users for said particular packet data, to said sender registered in said transmitting information storage device, by using a receiving status data for said particular packet data to be received by said terminals of said destination users registered in said transmitting information storage device (see column 12, line 45 – col 13, line 2);

wherein a number of packets of said particular packet data is calculated from said particular packet data stored in said transmitting information storage device (see column 8, lines 5-20);

and an amount of the transferred communication fee is calculated by using a number of destination users specified by said receiving status data, and said number of packets of said particular packet data (see col 9, lines 45-55).

DeLuca does not expressly teach wherein said charging said destination user is carried out without judging whether or not said *received* packet data *includes the* registered particular packet data. However, Applicant's background of the Invention teaches that it is old and well known in the communication art to charge a portable terminal user for receiving messages according to Data Terminal Equipment without distinguishing what particular packet data is received in said messages (see Applicant's background and also pages 5 and 8 where it says "same as the background art"). Therefore, it would have been obvious to person of ordinary skill in the art at the time the application was made, to know that DeLuca would bill a mobile terminal user on a per message basis without distinguishing if said messages are personal or informational, as it is old and well known to do, as taught by Applicant's background.

As per claims 2, 8 and 14, DeLuca teaches:

The method set forth in claim 1, further comprising:

charging said sender for said particular packet data when said particular packet data is transmitted to the destination users registered in said transmitting information storage device (see column 8, lines 5-40).

As per claims 3, 9 and 15, DeLuca teaches:

The method set forth in claim 1, wherein said registering comprises:

registering information regarding said sender and said particular packet data to be sent into said transmitting information storage device; and registering information regarding said destination users into said transmitting information storage device (see column 7, lines 45-55; col 3, lines 24-30).

As per claims 5, 11 and 17, DeLuca teaches:

The method set forth in claim 1, wherein said transferring comprises:

performing a processing to exempt particular destination users whose terminals are confirmed to have performed said processing to receive said particular packet data among said destination users registered in said transmitting information storage device from the charge for said particular packet data (see column 9, lines 45-67); and

performing a processing to charge said sender registered in said transmitting information storage device for a fee of said particular packet data for said particular destination users whose terminals are confirmed to have performed said processing to receive said particular packet data among said destination users registered in said transmitting information storage device (see column 10, lines 20-30).

As per claims 6, 12 and 18, DeLuca teaches:

The method set forth in claim 3, wherein said transferring further comprises:

acquiring data regarding said particular packet data which does not reach (see column 11, lines 55-65); and

specifying destination users who is confirmed to have performed said processing to receive said particular packet based on said data regarding said packet which does not reach (see column 11, lines 55-65).

5. Claims 4, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLuca (US 5,870,030) in view of Applicant's background of the invention and further in view of Jacobs (US 2004/0039784).

As per claims 4, 10 and 16, DeLuca and Applicant's Background of the Invention fails to teach: The method set forth in claim 3, wherein said particular packet data includes a Web page data, and said registering information regarding said destination users includes a step of registering information regarding said destination user that is acquired when a terminal of said destination user requests said particular packet data. However, Jacob teaches a system where users request and receive e-mails and advertisements using said users' mobile terminals (see paragraph 31). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that DeLuca would use the system taught by Jacob to allow users of mobile terminals to request and receive e-mails and advertisements, where the sender (*i.e.* advertiser) and not the receiver (*i.e.* destination user) of said advertisements would be billed for said distribution. The feature of advertisers compensating users for receiving advertisements in mobile terminals would make said users more willing to accept said advertisements, as said users would be credited for said receiving, which would help said users pay for the mobile terminal services.

Response to Arguments

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

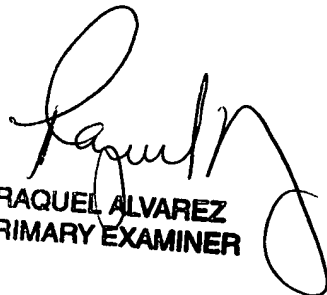
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
December 10, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER